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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,726	01/17/2002	Douglas R. Frederisy	53394.000607	2555

7590

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Christopher C. Campbell, Esq.  
Hunton & Williams  
Suite 1200  
1900 K Street, NW  
Washington, DC 20006-1109

EXAMINER

ALIE, GHASSEM

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 10/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/046,726

Applicant(s)

FREDERISY, DOUGLAS R.

Examiner

Ghassem Alie

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 2-21, 23, 27, 28, and 30-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 22, 24-26 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 and 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. Applicant's election with traverse of VI in Paper No. 10 is acknowledged. The traversal is on the ground(s) that that claims 1, 13, 22, and 36 are generic thereby linking the species identified by the Examiner and making the election requirement improper.

Applicant's traverse is misplaced. Clearly, different species are claimed and each species as identified by the Examiner is patentably distinct from each other. Generic claims permit rejoinder of a reasonable number of claims if one or more generic claims are found to be allowable. However, applicant's independent claims are not generic. In order to be generic a claim must comprehend within its confines the organization covered in each of the species. This is not possible here. For example, one species has an internal air applicator, another external air applicator, and in other a guide plate, and in another a substrate. While the broad claims may be broad enough to encompass several species they are not generic as defined by MPEP 806.04(D). Nevertheless, if an independent or superior claim that encompasses other claimed species is allowed, rejoinder will be permitted as long as there is compliance with respect to 35 U.S.C., 2<sup>nd</sup> paragraph.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 2-21, 23-27, 28, 30-35, and 37-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 10.

Claim 36 is also withdrawn from further consideration because it is drawn to nonelected species I; even though, this claim is stated by the applicant to be part of the elected species VI. (Fig. 7). The substrate as set forth in claim 36 is not part of the

elected species VI.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

Obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negative by the manner in which the invention was made.

4. Claims 1, 22, 26, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lobash et al. (5,425,217), hereinafter Lobash. Regarding claims 1 and 22, Lobash teaches an air applicator 10 for placing a series of parts into a substrate 32. Lobash also teaches that the air applicator includes a guide plate 18, an open passage 12 having an upstream end and a downstream end opposite the upstream end, and one or more orifices 36 adapted to direct airflow towards the downstream end. Lobash does not expressly teach that the air applicator increases the spacing between successive parts from a first spacing at the upstream end to a second spacing at the downstream end and an increase in the velocity of parts from a first velocity at the upstream end to a second velocity at the downstream end. However, the velocity of the part increases by the airflow of the air jet 36 on the plate 18 in Lobash's air applicator. The spacing between successive parts also changes as the velocity of the parts changes from the upstream of the plate 18, where the parts are cut by the cutting mechanism 58, to the downstream of the plate 18. See Figs. 1-5 and col. 3, lines 20-63 and col. 5, lines 1-68 and col. 6, lines 1-22 in Lobash.

Regarding claim 26, Lobash teaches everything noted above including that the one and more orifices 36 includes angled slots through the guide plate 18. See Fig. 5 and col. 4, lines 48-68 in Lobash.

Regarding claim 29, Lobash teaches everything noted above including a regulator adapted to control properties of the airflow. A regulator inherently controls the airflow that flows into air jets 36. The air pressure is at 10-15 psi, which inherently is supplied through an air regulator. Consequently, as the air pressure varies by the air regulator the properties of the airflow varies too. See col. 3, lines 42-62 and col. 4, lines 1-31 in Lobash.

5. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lobash in view of Ostberg (4,416,312). Regarding claims 24 and 25, Lobash teaches everything noted above except one or more guide pins, which are disposed on the guide plate on either or both sides of the open passage. Lobash teaches two side plates 16 which are disposed on the center plate 18 on both sides of the open passage 12. See Figs. 1-3 and col. 3, lines 20-62 in Lobash. However, Ostberg teaches guide pins 21a, which are disposed on both sides of a guide plat 21. See Fig. 2 and col. 3, lines 5-19 in Ostberg. The guide pins 26a function the same as Lobash's side plates since both keep the trimmed parts within the passage on the guide plate. Therefore, It would have been obvious to a person of ordinary skill in the art to replace side plates of Lobash's air applicator apparatus with the guide pins as taught by Ostberg.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stephan et al. (5,941,520, 6,042,107, and 5,836,247), Stephan (4,740,740), Stiel et al. (5,868,386), Berkoben et al. (6,305,772), and Demers et al. (5,669,603) teach an air applicator including one or more orifices having angled slots through the guide plate. Geske et al. (6,338,482), Kinjyo et al. (2002/0033573), Matthews (3,975,012), Loser et al. (6,010,128), and Maier et al. (5,636,833) teach an air applicator having a table or a conveyor. Blaser et al. (5,445,372) teaches an air applicator having a control device. Rapp, Jr. Et al. (3,306,425), Bergstein (2,625,085), and Ashlock, Jr. (2,406,311) teach a guide plate having side plate or pins.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (703) 305-4981. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703) 305-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

GA/ga

September 15, 2003

  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700